

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
SHREVEPORT DIVISION

DENELL LINN LEE #82875

CIVIL ACTION NO. 22-cv-052 SEC P

VERSUS

JUDGE ELIZABETH E. FOOTE

USA

MAGISTRATE JUDGE HORNSBY

**MEMORANDUM ORDER**

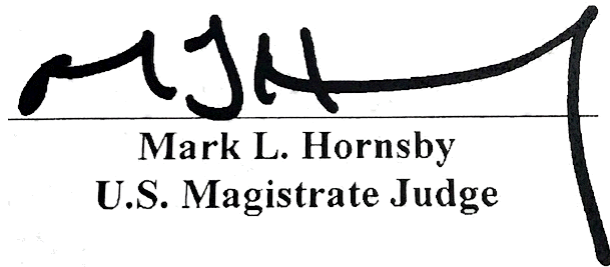
Denell Linn Lee (“Petitioner”) is a federal pretrial detainee who faces drug and firearm charges in this court. See U.S. v. Lee, 20-cr-00153 (W.D. La.). He was originally represented by a member of the federal public defender staff, but on his request panel attorney Sarah Giglio was appointed to represent him. A plea agreement was reached, but Petitioner was allowed to withdraw the plea based on his objections to the legality of the search of his vehicle. Defense counsel filed a motion to suppress, a hearing was held, and a report and recommendation was issued. That matter is still under consideration by the district judge. A jury trial is set for August 15, 2022.

During the course of the criminal proceedings, Petitioner filed this civil action in which he presented a petition for habeas corpus relief under 28 U.S.C. § 2241. He complained about the traffic stop and search that led to his arrest. There is pending a report and recommendation that recommends the petition be denied without prejudice based on the lack of exceptional circumstances that would permit the pretrial grant of Section 2241 relief.

Petitioner has now filed a Motion for Ineffective Assistance of Counsel (Doc. 14) in which he complains about the actions of attorneys Ernest Gilliam (who has never appeared in this case) and Ashley Martin, the federal public defender who previously represented him. The motion largely sets forth conclusory assertions of failure to adequately investigate, inadequate performance at a preliminary examination (none was held in this case), and the like.

Petitioner has not been convicted, so it is premature to assert a claim for ineffective assistance of counsel. If Petitioner is eventually convicted based on a guilty plea or after trial, he may then make arguments of ineffective assistance of counsel. Such arguments are occasionally but rarely considered on appeal. The more common and appropriate avenue for asserting such claims is in a Section 2255 motion that is filed after the appeal is completed. Petitioner's **Motion for Ineffective Assistance of Counsel (Doc. 14)** is **denied** as premature.

THUS DONE AND SIGNED in Shreveport, Louisiana, this 13th day of June, 2022.



Mark L. Hornsby  
U.S. Magistrate Judge